

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT A. BROWN, et al.

Plaintiffs,

V.

TELLERMATE HOLDINGS LTD.,
AKA TELLERMATE LTD., FKA
TELLERMATE GROUP LTD., et al.

Defendants.

CASE NO. 2:11-cv-1122

JUDGE: _____

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Tellermate Holdings Ltd., Tellermate, Inc., Insperity PEO Services, L.P., Paul J. Rendell, David W. Lunn, Gareth R. Davies, Edgar L. Biss, John Pilkington, and Debra Elliott (collectively “Defendants”), by and through their undersigned counsel, hereby file this Notice of Removal of Civil Action No. 11 CIV 01474 from the Court of Common Pleas, Franklin County, Ohio to the United States District Court for the Southern District of Ohio, Eastern Division. The grounds for removal are as follows:

1. Plaintiffs Robert A. Brown and Christine M. Brown (“Plaintiffs”) commenced an action in the Court of Common Pleas, Franklin County, Ohio, Case No. 11 CIV 01474, alleging claims for age discrimination in violation of Ohio Revised Code §§ 4112.02(N) and 4112.99, promissory estoppel, breach and contract, conversion, unjust enrichment, “illegal termination of stock options,” and negligence. Said action is now pending in that Court before the Honorable

Patrick E. Sheeran. This Court has original jurisdiction over said action under 28 U.S.C. §§ 1332(a) and 1441(a) and (b).

2. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Defendants in said action is attached hereto.

3. Process was served on Defendants in said action not earlier than November 18, 2011. Accordingly, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed with this Court within thirty (30) days after the service upon Defendants of a copy of the initial pleading setting forth the claims for relief upon which the said action is based.

4. Venue of this removal is proper under 28 U.S.C. § 1441(a) because the Court of Common Pleas, Franklin County, Ohio is located within the Southern District of Ohio.

5. Diversity jurisdiction exists under 28 U.S.C. § 1332 where the amount in controversy exceeds \$75,000 and there is complete diversity between the plaintiffs and defendants. Here, both requirements are satisfied.

6. Specifically, as set forth in Plaintiffs' Complaint, Plaintiffs seek to recover in said action, among other damages, compensatory damages, back pay, front pay, damages for emotional distress, punitive damages, attorneys' fees and interest "in an amount exceeding \$5,500,000." Thus, Defendants have a good faith belief that the amount at issue in this matter will exceed \$75,000.00, as required by 28 U.S.C. §1332(a).

7. Moreover, also as alleged in Plaintiffs' Complaint, there is complete diversity between Plaintiffs and Defendants in this matter because said action involves a controversy between citizens of different States and citizens or subjects of a foreign state, as follows:

- a) Plaintiffs Robert A. Brown and Christine M. Brown were, at the time of the commencement of this action, and are now, upon information and belief, citizens and residents of the State of Ohio.
- b) Defendant Tellermate Holdings Ltd. (“THL”) was, at the time of the commencement of this action, and is now, a corporation duly organized under the laws of, and with its principal place of business located in, the United Kingdom (“UK”).
- c) Defendant Tellermate, Inc. was, at the time of commencement of this action, and is now, a corporation duly organized under the laws of, and with its principal place of business located in, the State of Georgia.
- d) Defendant Insperity was, at the time of commencement of this action, and is now, a corporation duly organized under the laws of the State of Delaware, and with its principal place of business located in the State of Texas.
- e) Defendants Paul J. Rendell, David W. Lunn, Gareth R. Davies, Edgar L. Biss, and John Pilkington were, at the time of the commencement of this action, and are now citizens and residents of the UK.
- f) Defendant Debra Elliot was, at the time of commencement of this action, and is now a citizen and resident of the State of Georgia.

8. Accordingly, because Plaintiffs’ Complaint in this action contemplates relief in an amount that is believed to exceed \$75,000.00, because complete diversity exists between the parties, and because no Defendant is an Ohio citizen for purposes of diversity jurisdiction, Defendants submit that this action is one that is removable pursuant to the provisions of 28

U.S.C. §§ 1332, and that this United States District Court is given original jurisdiction in this action.

10. No Defendant has filed an Answer, motion, or otherwise pled or made an appearance in the State court action in the Court of Common Pleas, Franklin County, Ohio, in the action styled, "Robert A. Brown, et al. v. Tellermate Holdings Ltd., et al.," Case No. 11 CIV 014174 (Judge Patrick E. Sheeran). No other proceedings have been had in said State court action to date.

11. Defendants, as petitioners, represent that a true, genuine, and correct copy of this Notice of Removal, together with all exhibits hereto, will be filed with the Clerk of Court of the Court of Common Pleas, Franklin County, State of Ohio and served to Plaintiffs' counsel pursuant to 28 U.S.C. § 1446(d).

12. No admission of fact, law, or liability is intended by this Notice of Removal. Defendants expressly reserve the right to assert all defenses, affirmative defenses, and motions otherwise available to it, including defenses and objections as to venue, personal jurisdiction, and service, and the filing of this Notice of Removal is subject to, and without waiver of, any such defenses and objections.

WHEREFORE, Defendants petition that further proceedings in the Court of Common Pleas, Franklin County, Ohio be discontinued and that this action be removed to this Court, the United States District Court for the Southern District of Ohio, Eastern Division.

Respectfully submitted,

/s/ P. Jason Dejele

COLLEEN M. O'NEIL (0066576) (Application to S.D.
Ohio In Process)

P. JASON DEJELO (0076801) (Admitted to S.D. Ohio)

CALFEE, HALTER & GRISWOLD LLP

1400 KeyBank Center

800 Superior Avenue

Cleveland, Ohio 44114-2688

Telephone: (216) 622-8200

Facsimile: (216) 241-0816

coneil@calfee.com

jdejele@calfee.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2011, a copy of the foregoing Notice of Removal was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt or by regular U.S. mail to:

John L. Chaney
Ray P. Drexel
Gamble Hartshorn, LLC
One East Livingston Avenue
Columbus, Ohio 43215-5700
Telephone: (614) 221-0922
Facsimile: (614) 365-9741
chaney@gamblehartshorn.com
drexel@gamblehartshorn.com

/s/ P. Jason Dejele

Attorney for Defendants